

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

No. 3:20-CV-00710-FDW-DSC

HAYWARD INDUSTRIES, INC.,

Plaintiff,

v.

BLUEWORKS CORPORATION,
BLUEWORKS INNOVATION
CORPORATION, NINGBO C.F.
ELECTRONIC TECH CO., LTD; NINGBO
YISHANG IMPORT AND EXPORT CO.,
LTD.

Defendants.

**DECLARATION OF ERIK PAUL BELT IN SUPPORT OF PLAINTIFF HAYWARD
INDUSTRIES INC.'S MOTION FOR ALTERNATIVE SERVICE**

I, Erik Paul Belt, a partner with McCarter & English, LLP, declare as follows:

1. I am a partner at the law firm McCarter & English, LLP and represent Plaintiff Hayward Industries, Inc. ("Hayward"), in this action. I make this declaration to support Hayward's motion for alternative service via electronic means on foreign Defendants Ningbo C.F. Electronic Tech Co., Ltd and Ningbo Yishang Import and Export Co., Ltd (collectively "Ningbo").

2. Hayward alleges that Ningbo and other defendants (Blueworks Corporation and Blueworks Innovation Corporation) have infringed Hayward's federally-registered trademarks and have also committed false advertising, unfair competition, false designation of origin, and various other violations of the Lanham Act, as well as related violations of applicable state and common law.

3. Based on my investigation before filing the complaint, all of the defendants in this action appear to be connected and act in concert and are controlled by the same person or persons—namely, Richard Chen and/or Sun Haoqi.

4. On May 12, 2020, I, on behalf of Hayward, sent a cease and desist letter to Blueworks demanding that it stop selling products that infringe Hayward's trademarks and other intellectual property rights. A true and accurate copy of that cease and desist letter and tracking information is attached as **Exhibit A**. Although the letter was successfully delivered via FedEx, neither Blueworks nor any person or company associated with Blueworks responded to me or to Hayward.

5. Over a month later, on June 25, 2020, Hayward and I had still not heard from Blueworks. I thus sent a follow-up letter reiterating Hayward's demand that Blueworks stop its infringing conduct and to contact me. To date, I have not received a response, and I am not aware of any response made directly to Hayward or to other lawyers representing Hayward. A true and accurate copy of the follow up letter and tracking information is attached as **Exhibit B**.

6. Blueworks and Ningbo continue to advertise and sell infringing products on various retail websites and third-party retail websites.

7. Through a pre-filing investigation, Hayward and I discovered that Ningbo C.F. Electronic Tech Co., Ltd and Ningbo Yishang Import and Export Co are located at the same address and appear to be controlled by the same person. Specifically, Ningbo manufactures the infringing products (known as "salt cells") and advertises and sells them through various websites. Ningbo also supplies the salt cells to Blueworks in North Carolina.

8. Ningbo operates retail websites at www.techflife.com, <https://tecflife.en.ecplaza.net/>, and advertise and sell its products through its storefront on Alibaba.com at <https://techflife.en.alibaba.com/>.

9. On Ningbo's www.techflife.com retail website, at the bottom of the main page and the "Contact" page, Ningbo lists its contact email as richard@techflife.com. An annotated printout of the webpage is shown below:



[https://www.techflife.com/](http://www.techflife.com/) A true and accurate copy of the website is attached as **Exhibit C**.

10. Richard Chen is also the CEO of Defendant Blueworks Corporation. His email address is also listed on the Carolina Chinese Chamber of Commerce website. A true and accurate screenshot of the website is listed below:

Blueworks Corporation » Member Directory

All Members

- [Go back to directory.](#)
- [Add to Address Book.](#)

Blueworks Corporation

Contact: Richard , CEO

Work
12245 Nations Ford Rd
Pineville NC 28134
USA

Cell Phone: 336-470-2008

Work Email: richard@techflife.com

Website: <http://www.blueworkspool.com>

Biography

Blueworks we focus on giving our customers a happy, worry free experience and providing premium quality products. We have over 13 years of experience in developing and manufacturing Variable speed pool pump, salt chlorinator systems, Fresh water system, pool filter etc.



<https://www.carolinaschinesechamber.com/en/member-directory/name/blueworks-corporation/>.

11. As seen above, Mr. Chen's email for Blueworks is the same email listed as the contact information for Ningbo—namely, richard@techflife.com.

12. Moreover, on its www.Alibaba.com webpage under “Contacts,” Ningbo lists Richen Chen as the contact and has a link under “Contact Supplier” that allows a message to be sent to them along with attachments and, on information and belief, would be able to accept a summons and the complaint in this matter. An annotated screen screenshot is shown below:



Certificates



Company Introduction

Verification Type: Onsite Check

- ✓ Business Type: Manufacturer, Trading Company
- ✓ Country / Region: Zhejiang, China
- ✓ Year Established: 2006

Total Annual Revenue: US\$2.5 Million - US\$5 Million

Recent Transactions: 25

Main Products: Pool Chlorinator, Salt Water Chlorinator, Sal...

[Learn more about us](#)

Mr. Richard Chen

Leave Messages

Contact Supplier

Start Order

<https://techflife.en.alibaba.com/>

A true and accurate copy of the website is attached as **Exhibit D**.

13. Upon clicking on the link for “Contact Supplier,” a user is brought to an interactive messaging system to contact the supplier, in this case, Richard Chen. A true and accurate screenshot is below:

Alibaba.com Global trade starts here. Contact supplier

Richard Chen Ningbo C.f Electronic Tech Co., Ltd.

Enter product details such as color, size, materials etc. and other specification requirements to receive an accurate quote.

+ Add attachment

Send inquiry now

☐ Recommend matching suppliers if this supplier doesn't contact me on Message Center within 24 hours. **RFQ**

☒ Agree to share Business Card with supplier.

Please make sure your contact information is correct ([View and Edit](#)). Your message will be sent directly to the recipient(s) and will not be publicly displayed. Note that if the recipient is a Gold Supplier, they can view your contact information, including your registered email address. Alibaba will never distribute or sell your personal information to third parties without your express permission.

Alibaba.com Site: International - Español - Português - Deutsch - Français - Italiano - हिन्दी - Русский - 한국어 - 日本語 - اللغة العربية - عہدہ ایشیاء - Türk - Nederlands - tiếng Việt - Indonesian - עברית

AliExpress | 1688.com | Taobao Global | Alipay | Lazada

Product Listing Policy - Intellectual Property Protection - Intellectual Property Protection - Terms of Use

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https://message.alibaba.com/msgsend/contact.htm?spm=a2700.icbuShop.coea183788.3.490c5ff3BH6UAb&action=contact_action&domain=2&id=200214273&id_f=IDX1YJdd0k9EtlR_KyYeKj2_R5bAuTS15oGAKOpGgBOLSQqwM3lFN6F8S5d_Dfg4Lumz&mloca=&umidToken=Bb8bdfaec07317c7946bb9c27ad332dff

14. As seen above, the messaging system is in English, and Ningbo provides consumers a means to communicate with Ningbo directly. The recipient of the message is Richard Chen, and a person can provide a message and include attachments to their message.

15. Based on the above screenshots, the interactive messaging system on the Alibaba website would be able to accept a summons and complaint in this action and Hayward would be able to transmit the documents in the advertised method of communication.

16. Ningbo also provides on the Alibaba.com website the email info@techflife.com as an alternate email address to contact Ningbo directly if a user chooses to email Richard and Ningbo from personal email account. A true and accurate screenshot of the Alibaba.com website is shown below:

Floating Pool Light
15Amp Pool Timer
20Amp Pool Timer
Copper Silver Ionization
Others
Ungrouped
See All Categories

Certificate



Email to this supplier

To: Richard Chen

*Message: Enter your inquiry details such as product name, color, size, MOQ, FOB, etc.

Your message must be between 20-8000 characters

☒ I agree to share my Business Card to the supplier.

Send

Alibaba.com Site: International - Español - Português - Deutsch - Français - Italiano - 日本語 - Русский - 한국어 - 日本語 - اللغة العربية - עברית - Türk - Nederlands - tiếng Việt - Indonesian - עברית

AliExpress | 1688.com | Taobao Global | Alipay | Lazada

Browse Alphabetically: Onetouch | Showroom | Country Search | Suppliers | Affiliate

Product Listing Policy - Intellectual Property Protection - Privacy Policy - Terms of Use - User Information Legal Enquiry Guide

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<https://techflife.en.alibaba.com/>

17. Moreover, as further detailed in the accompanying declaration of Tiberius Dinu, Hayward hired private investigators in China to collect information on the relationship between Ningbo and Blueworks and on the infringing salt cells. Up until December 18, 2020, when Hayward filed the complaint in this action, Ningbo was not suspicious of any of Hayward's investigators or their purchase of sample infringing products. Only after December 18 did Ningbo start asking questions and later called the Chinese police when the investigators went to pick-up the purchased sample. That would suggest to me that Blueworks tipped off Ningbo about the complaint.

18. Attached as **Exhibit E** is a true and accurate copy of an order by United States District Judge Darrin P. Gayles granting alternative service by email and via Defendants

interactive storefront of Alibaba's messaging system on a Chinese defendant in the case: *Theragun, Inc. v. Golovan Ltd, et al.*, CA. No. 1:20-cv-22327-DPG (S.D. Fla. September 16, 2020).

19. Attached as **Exhibit F** is a true and accurate copy of an order by United States District Judge Rodolfo A. Ruiz II, granting alternative service by email on foreign Chinese defendants and by posting on a designated website in the matter: *Chanel, Inc., v Chanelbags.ru, et al.*, CA No. 0:20-cv-62335-RAR (S.D. Fla. November 18, 2020).

20. Attached as **Exhibit G** is a true and accurate copy of an order by United States District Judge David C. Godbey granting alternative service by email on Chinese defendant in the case: *Agilent Technologies Inc., v. J&X Technologies Co., Ltd.*, CA No. 3:19-cv-02156-N, (N.D. Tex. September 23, 2020).

21. Attached as **Exhibit H**, is a true and accurate copy of an order by United States District Judge Raag Singhal, granting alternative service on a foreign defendant and allowing for service via email and by posting on defendant's website in the matter: *Chanel Inc., v. ReplicasChanel.com*, et al, CA. No. 0:20-cv-62625, (S.D. Fla. December 24, 2020).

22. Attached as **Exhibit I**, is a true and accurate copy of an order by United States District Judge William Q. Hayes, granting alternative service on Chinese defendants via e-mail and through the online contact forms found on defendants' website in the matter: *TV Ears, Inc., v. Joyshiya Development Limited, et al.*, CA. No. 3:20-cv-01708-WQH-BGS, (S.D. Cal. January 19, 2021).

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 21, 2021.

/s/ Erik Paul Belt
Erik Paul Belt, Esq.